

## REMARKS

The applicant's counsel wishes to thank to the Examiner for the Examiner's review and consideration of the applicant's application. Claims 1-41 were pending in the application at the time of the Office Action. Claims 1-37 and 40 were rejected as being anticipated and/or obviated by cited art. Claims 38, 39 and 41 were rejected as being dependent upon a rejected base claim, but were considered allowable if rewritten in independent form including the elements of the base claims and intervening claims. Various objections were lodged relating to the drawings, specification, and claims.

### Amendments to the Specification and Claims

By this response, Applicant has cancelled various claims, as shown above, amended certain claims, and made certain claims independent, including claims 7, 38, and 39, which were originally dependent claims and have now incorporated language from their corresponding independent claims. Elements of claim 41 have been added to independent claim 34. No additional claims have been added. As such, the present claims are presented for the Examiner's consideration in light of the following remarks.

Applicant has amended the specification and claims to address formal issues relating to the claims, drawings, and specification, and to further clarify the invention. Various paragraphs have been amended to correct minor errors. Various deletions or amendments have been made in the specification and claims in order to overcome Examiner objections to the drawings.

Applicant has amended the claims to further clarify and more clearly define the claimed inventions to expedite receiving a notice of allowance. Support for these amendments may be found in the specification, claims, and drawings as originally filed. In view of the foregoing,

Applicant respectfully submits that the amendments to the specification and claims do not introduce new matter and entry thereof is respectfully requested

#### The Applicant's Invention

The applicant's invention is illustrated, for example, in Figure 10. As described in the Figures, including Figure 10, and the discussion relating thereto, a cushioned treadmill of the present invention comprises (i) a treadbase comprising a deck that moves when an exerciser exercises on the treadbase; and (ii) a self-adjusting cushioning assembly configured to (A) provide cushioning to movement of the deck; and (B) adjust the amount of cushioning provided to movement of the deck. The self-adjusting cushioning assembly, as illustrated clearly in Figure 10, and as discussed throughout the specification, comprises a user cushioning selection mechanism, e.g., a user cushioning selection pad, such that a user of the cushioned treadmill can input a desired amount of cushioning into the user cushioning selection mechanism.

Thus, as clearly disclosed and claimed in the specification, drawings and claims of the present invention, the user can input a desired amount of cushioning as part of the self-adjusting cushioning assembly of the present invention. For example, as specifically claimed in claim 18, the desired amount of cushioning can be selected from the group consisting of hard, medium or soft cushioning.

As will be discussed in the following paragraphs, the prior art cited by the examiner does not provide disclosure anticipating or obviating the applicant's claims, but rather fails to disclose or suggest the invention claimed by the applicant, particularly in the presently amended claims.

#### Rejections under 35 U.S.C. § 102

Applicant respectfully notes that a claim is anticipated under 35 U.S.C. § 102(a), (b), or (e) only if each and every element as set forth in the claim is found, either expressly or inherently

described, in a single prior art reference. Further, the identical invention must be shown in as complete detail as is contained in the claim. Finally, the elements must be arranged as required by the claim. *MPEP* § 2131.

Paragraph 6 of the Office Action rejects claims 1-4 and 9-12 under 35 USC § 102(b) as being anticipated by U.S. Patent No. 6,045,490 to Shafer et al. (“*Shafer*”). Paragraph 7 of the Office Action rejects claims 1-6, 9 and 10 under 35 USC § 102(b) as being anticipated by U.S. Patent No. 6,953,419 to Wang et al. (“*Wang*”). Paragraph 8 of the Office Action rejects claims 11, 13-18 and 28 under 35 USC § 102(b) as being anticipated by *Wang*. Paragraph 9 of the Office Action rejects claims 29-34 under *Wang*.

*Wang* and *Shafer* fail to individually or collectively disclose or suggest the applicant’s invention as claimed in the present claims. For example, *Wang* and *Shafer* fail to disclose a “self-adjusting cushioning assembly comprising a user input mechanism such that the cushioned treadmill adjusts the amount of cushioning provided by the treadmill based upon the input provided by the user”, as claimed in claim 1. *Shafer*’s treadmill does not include a self-adjusting cushioning assembly comprising a user input mechanism as disclosed and claimed by Applicant. Furthermore, *Wang*’s treadmill does not include a self-adjusting cushioning assembly comprising a user input mechanism such that the cushioned treadmill adjusts the amount of cushioning provided by the treadmill based upon the input provided by the user.

*Wang*’s disclosure is unclear on a variety of different points, and has complete lack of disclosure on others. For example, in column 2, line 66 – column 3, line 19, *Wang* references an embodiment in which manufacturers utilizing the *Wang* apparatus set reference values before delivery of products, specifically stating that “[w]hen the detection value of the cushioning force is abnormally too high or too low, or when the operator wants to adjust its value, he may ask the

manufacturer for an optimal adjustment or for a replacement of the cushioning elements 32 according to the detection value.” In such an embodiment of *Wang*, the treadmill manufacturer is asked for an optimal cushioning adjustment, rather than treadmill user conveniently making the adjustment, as is available in the present invention.

In the next *Wang* embodiment discussed in relation to Column 3, line 20 – 33, the operator “may conveniently set a personally suitable value of supporting force . . . by use of a manually adjustable knob.” In such an embodiment, cushioning adjustment is achieved through a manual knob, not an automated user selection system.

In the further *Wang* embodiment of Column 3, line 34 – 48, the patent describes an electrically adjustable hydraulic cylinder 50 having a driving motor 51 that is “automatically controlled by the microprocessor of the control console 22 and the built-in software program for duly adjusting the supporting force of the electrically adjustable hydraulic cylinder 50. It’s only required for the operator to set the staged difference by use of the control console 22.”

However, *Wang* does not clarify what is meant by the language relating to the “staged difference” set by the operator. It is not clear what the “staged difference” is. Thus, *Wang* does not disclose that a treadmill user can enter a desired amount of cushioning into a self-adjusting cushioning assembly. The applicant’s invention is not shown or suggested by *Wang*.

*Wang* does not disclose a self-adjusting cushioning assembly configured to (i) provide cushioning to movement of the deck; and (ii) adjust the amount of cushioning provided to movement of the deck, the self-adjusting cushioning assembly comprising a user input mechanism such that the cushioned treadmill adjusts the amount of cushioning provided by the treadmill based upon the input provided by the user. Similar remarks can be made with regard to additional independent claims that have been amended to include language relating to a user

selection mechanism. The disclosure of *Wang* should not be cited against the clear disclosure and claims of the present invention.

Claim 11 claims a self adjusting cushioning assembly comprises a user cushioning selection mechanism, the self-adjusting cushioning assembly configured to automatically adjust the amount of cushioning provided based upon input provided to the user cushioning selection mechanism, whereas *Wang* does not demonstrate such a user cushioning selection mechanism that enables user inputs to adjust the amount of cushioning provided.

*Wang* also fails to disclose that the user can select different levels of cushioning (e.g, hard, medium or soft), as claimed in claim 18.

The remaining rejected claims are similarly not anticipated by *Wang* and/or *Shafer*.

#### Rejections under 35 U.S.C. § 103

Applicant respectfully notes at the outset that in order to establish a *prima facie* case of obviousness, it is the burden of the Examiner to demonstrate that three criteria are met: first, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; second, there must be a reasonable expectation of success; and third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *MPEP* § 2143.

Paragraph 10 of the Office Action rejects claims 7 and 8 under 35 USC § 103(a) as being unpatentable over *Wang* in view of U.S. Patent No. 7,026,946 to Saunders et al. (“*Saunders*”). Paragraph 11 of the Office Action rejects claims 35-37 and 40 under 35 USC § 103(a) as being unpatentable over *Wang* and *Saunders*. Paragraph 12 of the Office Action rejects claims 19-27 under 35 USC § 103(a) as being unpatentable over *Wang*.

Particularly as amended to include language relating to a user selection mechanism or similar device, and in light of the foregoing discussion, the claims of the present invention overcome the Examiner's rejections relating to 35 U.S.C. Section 103.

Furthermore, claim 7, which includes the limitations of claim 1, should not be rejected based on *Wang* and *Saunders*. *Saunders* relates to the airbag industry and provides a method and apparatus for sensing occupancy in a vehicle seat. See column 1, line 55. It is respectfully submitted that there is no motivation to combine the teachings of *Wang* and *Saunders*.

D. Allowable Subject Matter

Page 9 of the Office Action specifically allows claims 38, 39 and 41 if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant wishes to thank the Examiner for the careful review and analysis of these claims. Claims 38 and 39 have been rewritten in independent form while language from claim 41 has been incorporated into claim 34.

E. Conclusion

In view of the foregoing, applicant respectfully requests the Examiner's reconsideration and allowance of the claims as amended and presented herein. Applicant has specifically discussed allowance of the independent claims above. *Wang* and *Shafer* fail to disclose or suggest a self-adjusting cushioning assembly comprising a user cushioning selection mechanism. The Applicant submits that many if not all of the dependent claims are independently distinguishable over the cited art.

In the event there remains any impediment to allowance of the claims which could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate such an interview with the undersigned.

Dated April 5, 2007.

Respectfully submitted,

/David B. Dellenbach/ Reg. # 39166/

DAVID B. DELLENBACH

Registration 39,166

Attorney for Applicant

Customer No. 022913

Telephone No. 801.533.9800

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